IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16819 of 2004

Between:

Sri Laxmi Wines Door No.3-92, NH-5Road
Ksimkota (Mandal) Visakhapatnam, rep by G.Dhanalaxmi
W/o.Prasad, age 45 years.

..... PETITIONER

AND

1 The Govt. of Andhra Pradesh Revenue (Ex.II) Department
Rep. by its Special Chief Secretary Secretariat, Hyderabad.
2 The Commissioner Prohibition and Excise
The Govt. of Andhra Pradesh Hyderabad.
3 The Excise Superintendent Visakhapatnam District
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order, direction particularly one in the nature of a writ of Mandamus declaring the action of the respondents in insisting to pay the licence fee in one lumpsum for the extended period of 6 months as per Memo Dt.9.9.2004 issued by the 1st respondent as illegal arbitrary and contrary to the rules and direct the respondents to permit installments as per the Rules and Circulars.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondent : GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

The petitioner claims to be the licensee in Form I.L. 24 and running business in the name and style of Sri Laxmi Wines. It is stated that the licence of the petitioner is being renewed from time to time and the same is valid up to 30-09-2004. It appears that the first respondent-Government issued a memo, dated 09.09.2004, stating that it has been decided to extend the licences of I.L. 24 and I.L.17 for a further period of six months from
01-10-2004 to 31-03-2005 and accordingly directing the second respondent to collect the proportionate licence fee for the extended period at the option of the licensees.

The petitioner contends that as per Rule 25(9) of A.P. Indian Liquor and Foreign Liquor Rules, 1970 (for short 'the Rules') the licensee is entitled to pay the licence fee in three equal instalments, however, as per memo dated
09-09-2004 the petitioners are required to pay the licence fees in one lumpsum for the extended period of six months. Hence, this Writ Petition seeking a declaration that the insistence of the respondents for payment of licence fee in one lumpsum being contrary to Rule 25(9) of the Rules is arbitrary and illegal.

On a perusal of the memo, dated 09.09.2004 it cannot be said that there is any such

demand from the respondent-authorities for payment of the licence fee for the extended period in one lumpsum. May be that Rule 25(9) of the Rules enables the licensee to pay the licence fee either in one lumpsum or in three equal instalments, but in the absence of any material to show that any orders have been passed by the respondents insisting on payment of licence fee in one lumpsum for the extended period, it is not necessary for this Court to go into the said question and therefore, the declaration as prayed for cannot be granted at this stage. Instead, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioner to make an appropriate representation before the respondents 1 and 2 to permit her to pay the licence fee for the extended period in three equal instalments, in which event, the same shall be considered in accordance with law and appropriate orders shall be passed within one week from the date of receipt of such representation.

With the above direction the writ petition is disposed of. No costs.

_____

20-09-2004

Note: C.C. in two days.

B/o

klp

To

1 The Govt. of Andhra Pradesh Revenue (Ex.II) Department
Rep. by its Special Chief Secretary Secretariat, Hyderabad.
2 The Commissioner Prohibition and Excise
The Govt. of Andhra Pradesh Hyderabad.
3 The Excise Superintendent Visakhapatnam District
Visakhapatnam.

4 2CCs to G.P. for Prohibition and Excise, High Court buildings,

Hyderabad.(OUT).

5 2CD copies